THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 16th day of March,2007

W.P.No.3975 of 2004

Between:-

Ch. Nemaji … Petitioner

and

The Superintending Engineer (OP),
Northern Power Distribution
Company Ltd., Adilabad and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.3975 of 2004

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of the 2nd respondent in issuing Memo No.DEE/OP/ADB/ F.No.50/D.No.1673/04, dated 7-2-2004 informing the petitioner that he is going to retire from service on 28-2-2005 on attaining the age of superannuation (58 years) based on the alleged date of birth of 10-2-1947 recorded in the service book without recording the correct date of birth as 2-5-1949 as arbitrary and illegal and consequently to direct the respondents to treat the date of birth of the petitioner as 2-5-1949 for all purposes.

According to the petitioner, he belongs to Scheduled Tribe and studied V Class in 1963 at Z.P. High School, Tandur, Adilabad District and further appeared for SSC Examination in the year 1984 as a private candidate through the above School and passed the examination. He was appointed as Assistant Lineman on daily wage basis in 1968 in the erstwhile A.P. State Electricity Board at Sirpur-Kagaznagar, Adilabad District. Further, he was appointed as a Helper on regular basis with effect from 27-11-1969 and promoted as Assistant Lineman in 1976, Wireman in 1978, Lineman in 1979 and Line Inspector in the year 1999. In the service record, it appears, there was a mistake occurred in noting his date of birth as 10-2-1947 instead of 2-5-1949. In the year 1988, he was directed to produce educational certificates and in compliance of the same, he submitted V Class

Transfer Certificate dated 29-1-1981 issued by the Head Master, Z.P.High School, Tandur and Secondary School Certificate dated 24-6-1984 issued by the Board of Secondary Education, Andhra Pradesh, Hyderabad, wherein it was clearly recorded his date of birth as 2-5-1949. Since no action was taken, he made a representation in the year 1990 asking the authorities to rectify the mistake occurred in the service record for which he is not responsible. But the respondents have not rectified the mistake and deferred his promotion on the ground that the enquiry was pending. Though he is eligible for promotion as Line Inspector as on 14-10-1995, the date on which juniors were promoted, he was not given promotion. Therefore, he filed Writ Petition No.30797 of 1997 and in pursuance of the interim orders passed therein, he was promoted as Line Inspector. But, insofar as the correction of date of birth is concerned, it was not done. Hence, this Writ Petition.

Though no counter is filed, learned counsel for the respondents denied the allegations made by the petitioner and stated that at the fag end of the service of the petitioner, the petitioner has filed the present Writ Petition; therefore, the plea of the petitioner cannot be considered.

There is no necessity of going into all the details. The fact that the petitioner joined in the service of A.P.S.E.B. is not in dispute. It is also not in dispute that the Divisional Engineer, APSEB, Adilabad through his letter dated 20-9-1994 got the Secondary School Certificate as well as the Transfer Certificate issued by the School verified from the School. The Head Master concerned addressed a letter to the Divisional Engineer, C&M Division, Adilabad stating that the entries made in the Transfer Certificate i.e., the date of birth as 2-5-1949 and the entries made in the Secondary School Certificate were verified and they were found to be tallied verified with the office record

of the School. Further, the petitioner produced the original of Secondary School Certificate issued by the Board of Secondary Education showing that he appeared as a private candidate for SSC Examination held in the month of March,1984 and his date of birth was shown as 2-5-1949. He also produced the original of the Transfer Certificate No.12665, dated 29-1-1981 issued by the Z.P.High School, Tandur, Adilabad District, wherein also his date of birth was mentioned as 2-5-1949. Petitioner joined in the service of the erstwhile APSEB as Helper on regular basis in the year 1969. These certificates issued by the authorities were already verified by the Divisional Engineer and the Head Master concerned certified that the same are true and correct. In spite of this, the petitioner was not continued upto 58 years by treating his date of birth as 2-5-1949, instead his date of birth was taken as 10-2-1947 and he was made to retire with effect from 28-2-2003. Under those circumstances, I am of the opinion that the Transfer Certificate issued by the Head Master of the School on 29-1-1981, the Secondary School Certificate issued by the Board of Secondary Education, Andhra Pradesh on 24-6-1984 read with the letter dated 29-9-1994 of the Head Master, Zilla Praja Parishad Secondary School, Tandur Mandal, Adilabad District addressed to the Divisional Engineer, abundantly make it clear that the date of birth of the petitioner is 2-5-1949. On what basis in the service recorded the date of birth of the petitioner was recorded as 10-2-1947 is not known. In view of the above, the respondents are directed to consider the case of the petitioner for correcting his date of birth as 2-5-1949 instead of 10-2-1947 in the service record and extend all the service benefits to him, as per law.

With the above directions, the Writ Petition is disposed of. No order as to costs.

16-3-2007

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(B.O.)
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